

**REMARKS/ARGUMENTS**

The specification has been revised to conform it to the preferred format for U.S. patent applications, and a Substitute Specification and Comparison Copy are submitted herewith.

Claims 33-39 and 41-46 are amended; claims 1-32, 40, and 47-64 are canceled; claim 65 is new; and claims 33-39, 41-46, and 65 are pending upon entry of the Amendment. No new matter is introduced by way of the Amendment.

The claims were reworded to substitute the routinely used "wherein" for the less common "characterized in that" and to delete all drawing reference numerals from them. These changes were made for purposes of clarification unrelated to patentability concerns.

**Claim Rejections – 35 USC §112:**

Claims 47 and 49 were rejected under 35 USC §112, first and second paragraph, respectively. Applicant respectfully disagrees, but has canceled these claims to expedite prosecution of the application.

**Claim Rejections – 35 USC §102:**

Claims 33-35, 37-42, 48, and 51 are rejected under 35 USC §102(b) as being anticipated by DE 19823515 to Badin. The rejection is respectfully traversed.

Badin does not teach nor suggest, inter alia, " and an upper part [[(3)]] having a central pressing stamp [[(5)]] axially displaceable relative to the upper part [[(3)]] and closing the hollow space of the head part for the forming of a tolerance compensating recess [[(12)]] in the head part [[(11)]] of the stopper [[(10)]]", as required by claim 33.

With exemplary reference to Fig. 1 of the application, claim 33 requires that the upper part (e.g., 3) has a central pressing stamp (e.g., 5) axially displaceable relative to the upper part and closing the hollow space of the head for the forming of a tolerance compensating recess (e.g., 12) in the head part of the stopper. Accordingly, the hollow space of the head part of the

mold is not only closed by the pressing stamp itself but also by the portion surrounding the pressing stamp, i.e., by the upper part (e.g., 3). The upper part (e.g., 3) comes in contact with the glass material.

The Office Action recited on page 4 that element 5 of Badin anticipates this feature. However, the disclosure of Badin does not reasonably support this conclusion. With reference to the figure of Badin, element 5 clearly does not come into contact with the head part of a stopper. The assumed head part 11 of Badin is shown to be in contact with an element 8, and which is described in the translation to lock the bottom of the mold. Clearly, the head part 11 has no contact whatsoever with the element 5, and therefore this rejection is not supported by the reference.

Solely to expedite prosecution of the application, claim 33 has been amended to further recite, "wherein the upper part of the mold forms a planar surface on the head part, and a part region of a stopper rounding of the stopper, and merges into a cylindrical outer contour of the head part". This claim limitation was previously recited, for the most part, by claim 40. Badin does not reasonably recite this limitation. Badin shows that element 4 of the mold never comes into contact with the glass, as the negative contour of the stopper manufactured is only determined by the base part, the middle part and the axially displaceable pressing stamp 5.

Further, the EPO translation of the Badin reference recites (page 1, paragraph 5, from below) that it is impossible to specify the volume of a glass post precisely and therefore one is working with a volume which is larger as required for the production of the body. The excess glass material is pressed by the stamp into a small ring room surrounding the stamp in its end position. A glass ring formed due to the excess of glass must always be cut off and a subsequent polishing of the body is necessary. This is clearly disclosed by Badin.

In contrast to this known system, the claimed invention avoids any additional processing like cutting and polishing because the outer contour of the glass stopper is always the same, and compensation of different amounts of glass material occurs by different end positions of plunger 4 and resulting different depths of the tolerance compensating recess 12 in the head

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part of the stopper. Thus, the final product according to the invention always looks as shown in the drawing, whereas the final product according to Badin has no recess because the glass ring – which can have different heights depending on the amount of excess material – must always be cut off.

For at least these reasons, claim 33, and all claims dependent therefrom, is allowable over Badin.

The remaining claims were additionally rejected under 35 USC §103(a) as being unpatentable over Badin in view of various other references. These rejections are respectfully traversed, as these claims ultimately derived patentability from claim 33. These claims also recite patentable claims in their own right.

### CONCLUSION

In view of the foregoing, applicant submits that this application is in condition for allowance, and a formal notification to that effect at an early date is requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (415) 273-4380 (direct dial).

Respectfully submitted,



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